

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 481
Case No. 85-10M/79-14F
January 13, 1986
(Modification to Hillandale - PUD)

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on December 5, 1985. At that hearing session, the Zoning Commission considered an application from the First Federal Savings of Arkansas, F.A. and the NS&T Bank, N.A. for a modification to an approved Planned Unit Development (PUD), pursuant to Section 7501 of the Zoning Regulations of the District of Columbia. The public hearing was conducted in accordance with the provisions of chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The application, which was filed on July 23, 1985, requests a modification to Zoning Commission Order No. 305 dated January 10, 1980. Z.C. Order No. 305 granted approval of a second-stage PUD located at 3905 Reservoir Road, N.W.
2. The PUD approval was for a residential development of 268 single-family dwelling units, a floor area ratio (FAR) of 0.40 and a maximum height limit of forty feet. The PUD site is zoned R-1-B and is approximately forty-two acres of land called the Hillandale tract. Hillandale is bounded on the east by 39th Street, N.W., on the south by Reservoir Road, N.W., on the west by Glover-Archbold Park and the French Chancery, and on the north by the Whitehaven Parkway.
3. The Zoning Commission, by Z.C. Order No. 412, dated November 21, 1983, modified Z.C. Order No. 305 to extend the effective date for a period of ten years, namely until January 10, 1994.
4. The R-1-B District permits matter-of-right development of single-family residential uses for detached dwellings with a minimum lot area of 5000 square feet, a minimum lot width of fifty feet, a maximum Lot

occupancy of forty percent, and a maximum height of three-stories/ forty feet.

5. Pursuant to Section 7501, the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development, conditions, guidelines, and standards which may exceed or be lesser than the matter-of-right development standards.
6. The site that is the subject of this application is a portion of the Hillandale tract. The subject application includes Lots 948-961 and lots 963-976 in Square 4320, and is approximately thirty acres in size. In regards to the portion of the Hillandale tract that is not the subject of this application, the findings of fact in Z.C. Order No. 305 remains applicable.
7. The subject application proposes that the previously approved single-family residential use, the 0.40 FAR density of the property, and the maximum building height will remain the same. The total number of houses proposed for the entire PUD site will be reduced by one with the proposed modifications from 268 houses to 267 houses. There will be no change in overall project access and no overall loss of trees caused by the proposed modifications. The proposal, in fact, will result in a net gain in the amount of trees preserved on the site (approximately 1/2 acre more tree preservation) .
8. The property involved in the subject application includes only the northern portion of the Hillandale tract. The applicants purchased the property through a foreclosure proceeding against the former owner and developer of the PUD site, the Hillandale Development Corporation. The applicants retained Kettler Brothers to serve as their agent and developer of the subject *site*.
9. In accordance with Z.C. Order No. 305, the Hillandale Development Corporation completed a cluster of fifty-four townhouses called the "Georgetown Cluster" and partially conducted the foundations for a group of thirty-three townhouses called the "Chancery Cluster" before it was forced to abandon the project because of financial difficulties. Neither the Georgetown Cluster nor the Chancery Cluster, located in the southern portion of the originally approved PUD site, are included in the subject application.
10. Excluded from the subject application are certain areas of the Hillandale tract which are currently owned by the Hillandale Homeowners Association. These areas include a portion of the completed, internal project

roadway, the Georgetown Cluster common areas, the completed tennis courts and the unbuilt swimming pool site.

11. The subject application proposes the following modifications to the approved PUD to make the development of the Hillandale tract economically feasible:
 - a. The deletion of the below-grade, common structured parking facilities approved by the Zoning Commission for the unbuilt housing clusters;
 - b. Adjustments in the location and configuration of the housing clusters;
 - c. Modifications of some of the tree preservation areas; and
 - d. Modifications in the architectural design of the houses to improve their marketability.
12. The net result of the proposed changes is a reduction of the total number of units on the Hillandale site from 268 to 267 and an increase in the total tree preservation area of more than one-half acre. The perimeter tree preservation areas remain as previously approved. The proposed modification plan conforms with the previously approved FAR limitations, building height restrictions, parking requirements, lot occupancy restrictions, building setback and storm water management requirements.
13. The applicants, by the testimony of the developer presented at the public hearing, indicated that the common underground parking facilities included in the approved PUD plan would be very expensive to build because they require a substantial amount of reinforced concrete structure. He estimated that the additional expense to construct the common parking facilities would be considerable, increasing the price of each unit in excess of \$30,000. The parking facilities would not be economically feasible to build because most purchasers would not perceive the structured facilities as a feature to justify the extra cost.
14. In lieu of the common parking facilities, the applicants are proposing to build individual garages for each of its houses. A second parking space will be provided for each house in the garage driveway. A total of 96 visitor parking spaces will also be provided.
15. The project manager testified that the architectural design of the houses is proposed to be modified because

the market now requires many amenities which were not available in the previously approved houses. In addition, the approved houses had different widths which limited the developer's ability to change the mix of housing units within a cluster without incurring considerable redesign and engineering expense. The applicants are now proposing a standard twenty-two foot width for all townhouses.

16. The developer testified that the proposed modifications in the exterior facades of the townhouses are in keeping with the requirements of today's market. He testified that the proposed facades will blend well with the existing Georgetown Cluster townhouses and will compliment the architecture in the Burleith community and surrounding neighborhoods.
17. The agent for the applicants further testified that the proposed townhouses are designed to conform to the existing grades on the site, thereby minimizing ground disturbance. To create character and interest in the overall project appearance, key architectural features including varying building heights, varying setbacks from the street, attractive entry courts, porches, bay windows, gables, dormers and a variety of window treatments are utilized.
18. The covenants previously entered into with the Burleith Citizens Association by Hillandale Development Corporation including provisions for the protection of tree preservation areas along 39th Street will remain intact. The applicants have agreed to enter into a scenic easement agreement for the protection of the tree preservation areas adjacent to the federal parkland along the western and northern boundaries of the subject property.
19. The developer testified that Kettler Brothers' market studies indicate an absorption rate of twenty-six to thirty-five homes per year for an estimated total project build-out in approximately five years. Because that absorption rate might change and because other factors might protract development of the project, the applicants propose to retain the ten-year extension on the PUD which was granted by the Zoning Commission in 1983.
20. The construction of the single-family detached houses included in the previously approved site plan for the northern end of the site adjacent to Whitehaven Park will be governed by the previously approved development controls in the PUD and architectural review by the project homeowners association as previously approved. No modifications were proposed to the previously

approved use of the existing mansion located on the subject site which is: single family use or use as a club-type facility for the homeowners.

21. The agent for the applicants testified that the applicants have agreed to work with the Georgetown Cluster homeowners to establish a single homeowners association for the entire PUD site and to assume a **major** share of the responsibility for organizing and governing that association. He testified that the applicants further agreed to share with the existing homeowners the cost of constructing the approved swimming pool for the project , if the homeowners decide to construct the pool.
22. The applicants entered into an agreement with the District of Columbia Department of Employment Services to work with that department to see that job opportunities created by the construction of the project are made available to D.C. residents.
23. The agent for the applicants testified that approval of the subject application is essential to the development of the subject property by the applicants and Kettler Brothers. Development of the site in accordance with the previously approved site plan is not economically feasible. He further testified that time is of the essence in developing the project. The applicant loses in excess of \$175,000 per month for every month of delay in the project.
24. The applicants **site** planner testified that the concept of the proposed landscape plan is similar to the approved PUD. The proposed **storm water** management plan is also consistent with the approved PUD plan with a slight adjustment in the north central storm water management pond.
25. The applicant's traffic consultant testified that the proposed modifications would have **no** adverse impact on the surrounding area and street systems.
26. The District of Columbia Office of Planning (OP), by memorandum dated **November** 25, 1985 and by testimony presented at the public hearing, recommended approval of the application, subject to a favorable report from the D.C. Department of Public Works. The OP notes that the "Generalized Land Use Map of the Land Use Element of the Comprehensive Plan designates the general area within which this property is located for Moderate Density Residential use and development, i.e., Row-houses and Garden Apartments. Therefore, the density and use of the subject development, in our opinion, are

- in keeping with the provisions of the Comprehensive Plan."
29. The District of Columbia Department of Public Works (DPW), by memorandum dated November 26, 1985, has no objections to the proposed modification plan, provided the development of the site will conform to storm water and erosion control previously approved under Z.C. Order No. 305.
 28. The Advisory Neighborhood Commission (ANC) 3B, by letter dated November 22, 1985, indicated that it unanimously voted to support the application, subject to the following:
 - a. There would be no adverse impact to the neighboring Burleith residential community and the covenants which were negotiated previously regarding the public space along 39th Street would remain intact;
 - b. Changes to the development will be internal and while there will be reconfiguration of the clusters, there will be no increase in density of the project;
 - c. The tree preserve will remain intact; and
 - d. There will be one homeowner's association representing the interests and concerns of the Hillandale residents.
 29. The Georgetown Cluster homeowners, by letter dated December 3, 1985, supported the subject application, The letter was signed by the owners of thirty units in the Georgetown Cluster or their authorized representatives.
 30. The Burleith Citizens Association (BCA), by written statement dated December 5, 1984, stated that the subject application proposes no changes in those features of the project which are included in covenants which it previously entered into with Hillandale Development Corporation. Consequently, the BCA supports the new developer's proposal,
 31. Georgetown University, by letter dated December 3, 1985, stated that the University has no objection to the subject application.
 32. Richard W. Carr who is the owner of a single-family detached house constructed inside the northern perimeter of the subject property, by letters dated November 26, 1985 and December 2, 1985, expressed

support for the project subject to concerns regarding traffic distribution in the northern portion of the subject property.

33. There were no persons or parties in opposition to the subject application.
34. The Commission finds that the proposed modification to the approved PUD is not unreasonable and would allow for the eventual development of subject thirty-acre site.
35. The Commission concurs with the recommendation of the OP and the findings of the DPW.
36. The Commission finds that the proposed development is not inconsistent with the Comprehensive Plan of the District of Columbia.
37. The Commission concurs with the position of ANC - 3B and believes that the applicants have adequately and satisfactorily addressed the issues and concerns of the ANC .
38. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC, by report dated January 9, 1986 indicated that the proposed action of the Zoniny Commission would not adversely affect the Federal Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The subject application is properly processed as a modification to the previously approved PUD.
2. The Planned Unit Development process is an appropriate means of controlling development of the subject site, since control of the use and site plan is essential to insure compatibility with the neighborhood.
3. The development of this PUD carries out the purpose of Article 75 to encourage the development of a well-planned residential development which will offer more attractive and efficient overall planning and design without sacrificing creative and imaginative planning.

4. Approval of the application would be consistent with the purposes of the Zoning Act (Act of June 20, 1938, 52 Stat, 797) by furthering the general public welfare and serving to stabilize and improve the area.
5. Approval of this application is not inconsistent with the Comprehensive Plan of the District of Columbia.
6. The proposed application can be approved with conditions which would insure that development would not have an adverse affect on the surrounding community.
7. The approval of the application would promote orderly development in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Maps of the District of Columbia.
8. The Zoning Commission has accorded Advisory Neighborhood Commission - 3B the "great weight" to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission hereby orders APPROVAL pursuant to Paragraph 7501.39 of the Zoning Regulations of the modifications to Z.C. Order No. 305 governing the Hillandale PUD which includes Lots 807-882, 884-895, 913, 945, 948-976, the property bounded on the east by 39th Street, N.W., on the south by Reservoir Road, N.W., on the west by Glover-Archbold Park and the French Chancery, and on the north by Whitehaven Parkway. This approved modification is intended to reflect changes to Z.C. Order No. 305 that are applicable to, and affected by, the subject application. This approved modification is subject to the following conditions, guidelines, and standards, which shall replace the previously approved conditions, guidelines, and standards in Z.C. Order No. 305. The underlined text represents changes to Z.C. Order No. 305 that apply to the subject application. Z.C. Order No. 412 shall remain in effect.

1. The planned unit development shall be developed under the existing R-1-B zone district, in accordance with plans dated November 19 and 20, and December 6, 1979, prepared Sasaki Associates, Inc., and Greenhorne and O'Mara, Inc., marked as Exhibits No. 46 and 59 of the record, except as such plans may be modified to conform to the conditions listed below, and for Lots 948-961 and 963-976, with the plans dated July, 1985, prepared by Greenhorne and O'Mara, Inc., marked as Exhibit 4 in Case No. 85-10M/79-14F, ("the Modifications Plans").

2. The maximum number of units shall be 267 including the existing mansion and gatehouse, of which no more than 183 shall be row houses, no more than 56 semi-detached houses, and no more than 29 detached houses except as provided in item 32 below,

3. All dwellings shall be single-family residences. The existing mansion may include club-type facilities for homeowners. The maintenance building may be used for management, maintenance and recreation services. Uses may also include other buildings and structures accessory and incidental to the main use of the property, including recreational and storage facilities.

4. Temporary use of the existing gatehouse as a sales and project management office for the Hillandale Corporation is permitted. This unit shall ultimately be used as a single-family dwelling unit as shown on Drawing 3A of Exhibit 59. A maximum number of four townhouses may also be used for sales activities and model homes during the per! of initial development.

5. The maximum gross floor areas, as defined by the Zoning Regulations, for the overall Planned Unit Development shall not exceed 731,980 square feet, The floor area ratio for the Planned Unit Development shall not exceed 0.40.

6. The maximum gross floor area for each of the 27 single-family detached "custom homes" shall not exceed 4,836 square feet, The design and construction of these units shall be controlled by the applicant in accordance with the features of the "Architectural Guidelines for Twenty-eight Detached House Lots" included on pages A-45 through A-51 in the document entitled "Hillandale PUD" marked as Exhibit No. 2-A of the record.

7. The overall lot occupancy for the Planned Unit Development shall not exceed twenty-one percent,

8. The maximum height of buildings shall not exceed 40 feet, measured from the grade in front of the entrance door for those units at grade and from the deck in front of the entrance door for dwellings on a mews-deck, except that as to Lots 4 through 27 as shown on Drawings 3B and 3C of Exhibit No. 46 along the Whitehaven Park property line, no building shall exceed:

- a. 30 feet in height as measured from the finished grade at the centerpoint of the rear wall of the building to the ceiling of the uppermost story, provided that a building may exceed thirty feet in height if the building is set back from the rear lot line one foot for each foot in height, to a maximum height of 40 feet.

- b. Forty feet in height, as measured from the grade in front of the entrance door.

9. The maximum number of parking spaces shall be 740 spaces. The minimum number of parking spaces shall be 267 spaces.

10. The following setbacks from the exterior boundaries (property lines) of the site to the rear walls of buildings are required:

- a. For lots numbered 4 through 27 that have rear lot lines along the northern perimeter (Whitehaven Parkway) of the site: 30 feet.
- b. For those lots that have rear lot lines along the 39th Street property line from the Whitehaven Parkway to the emergency entrance: 30 feet,
- c. For those lots that have rear lot lines which abut the common tree preservation area along the 39th Street property line from the emergency entrance to the main entrance: 40 feet.
- d. For those lots that have rear lot lines which abut the common tree preservation area along the 39th Street property line from the main entrance to the Reservoir Road: the setback ranges from 28 feet to 60 feet as shown on Drawings 3A of Exhibit 59.
- e. For those lots which have rear lot lines which abut common areas along the French Chancery property line to the Georgetown Cluster, as per deed restrictions: 75 feet.
- f. For those lots which have rear lot lines which abut common areas along French Chancery property line to the Chancery Cluster, as per deed restrictions: 50 feet.
- g. For those lots which have rear lot lines which abut common tree preservation areas along the Clover-Archbold property line to the Parkside Cluster: 60 feet.

3.1. The location of the clusters and individual units shall be as shown on Drawings 3A and 3C of Exhibit 59, and Drawing 3B of Exhibit 46, except as superseded by Drawings 3A, 3B, and 3C of the Modification Plans, provided that the overall length or width of a cluster may be increased in an outward direction by not more than 10 feet or reduced by not more than 15 feet, except where such a change would encroach

on a tree preservation zone or area, or a plan setback, in which case the increase or reduction shall be allowed only to the restricted area boundary,

Moreover, Wall #7 shown on Drawing 14C of the Modification Plans shall not encroach on a tree preservation zone. The final location of the westernmost detached house lot shall be determined after a detailed review of the site in question with the National Park Service taking into account the objective of minimizing the impact of the house on the Park Service while maintaining a buildable lot.

12. The locations of the pool, tennis courts and maintenance building shall be as shown on Drawing 3A of Exhibit 59, and Drawing 3B of Exhibit 46. The location of these facilities may be moved 10 feet in any direction, except where such a change would encroach on a tree preservation zone or area, or a plan setback in which case the adjustment in location shall be allowed only to the restricted area boundary. The configuration of the pool shape may change,

13. The locations of the tree preservation zones and areas shall be as shown on Drawings 3A and 3C of Exhibit 59 and Drawing 3B of Exhibit 46, except as superseded by Drawings 3A, 3B and 3C of the Modification Plans. Within the boundary of a tree preservation area or zone, no tree over one inch in breast height caliper shall be removed (no tree of any size in the 39th Street tree preservation zone), except trees which are dead or diseased or which are a threat to persons or property. This restriction shall apply to the applicant during construction and, after sale to individual homeowners and transfer of common areas to the homeowners' association, to individual lot owners as to tree preservation areas in private lots and the homeowners' association as to tree preservation zones and areas held in common.

14. The applicant and the individual lot owners and/or homeowners' association may plant new trees and shrubs in tree preservation areas and may undertake forest management activities in such areas, including understory control and light grading and ground cover planting to control soil erosion. The understory in tree preservation areas, in individual private lots and in commonly held areas, shall be maintained in a manner so as to preserve its functional viability.

15. During construction, the applicant shall undertake measures, including the erection of snow fence barriers, at tree preservation zone and area boundaries to preclude construction activity or storage within such areas. Following construction, no ancillary buildings, decks or patios or any storage shall be allowed in tree preservation zones and areas,

16. The applicant shall include the above restrictions relating to tree preservation zones and areas in all deeds of sale and in the bylaws of the homeowners' association,

17. With regard to enforcement of the restrictions of the tree preservation zones and areas during construction, the applicant shall provide certification by a licensed engineer and landscape architect of compliance with items 12, 13, 14 and 15 of this Order. Certification of compliance shall be accomplished once every 30 days until completion of construction of the Planned Unit Development. Copies of each certification shall be forwarded to the Zoning Administrator of the District of Columbia, the Assistant City Administrator for Planning and Development, the Director, D.C. Department of Environmental Services and the Regional Director of the National Capital Region of the National Park Service. The Zoning Administrator shall monitor the compliance of the conditions of this Order regarding restrictions of the tree preservation zones and areas in consultation with the Assistant City Administrator for Planning and Development, the Director, D.C. Department of Environmental Services, and the Regional Director of the National Capital Region of the National Park Service.

18. Scenic easements shall be dedicated to the Secretary of the Department of Interior for the following tree preservation zones and areas as shown in Exhibits 46 and 59, except as superseded by Drawings 3A, 3B and 3C of the Modification Plans:

- a. Approximately five (5) acres located to the west and south of the existing mansion.
- b. That area located between the western boundary line of the Planned Unit Development and the northwesternmost townhouse cluster to be a minimum of 30' in width and approximately 325 feet in length.
- c. That area located adjacent to Whitehaven Parkway to the rear of the "Custom Homes" to be a minimum rear yard of 30 feet in depth from the Whitehaven Parkway boundary, except that Lots 937 and 938 of the Modification Plans shall have a minimum rear yard depth of 45 feet, In addition, the scenic easement extending 27 feet from the site boundary shall be extended along the full length of the northern and western boundaries of the site and shall include the area between Lots 2, 3 and 4 around the retention pond, as marked on Sheet 3C of Exhibit 59.

19. Lot size and location may vary, based on topography and grading from lots shown on Drawings 3A, 3B and 3C of Exhibits 46 and 59, except as superseded by Drawings 3A, 3B, 3C of the Modification Plans. Each unit shall have either a private side yard or rear yard located on its lot, with such yard having at least 15 feet in width or depth and minimum area of at least 300 square feet.

20. The applicant may construct porches, stairs, patios, decks, fences, storage areas, and retaining walls within rear and side yards provided no such construction violates the conditions contained in item 13 of this Order.

21. The location of all roads, parking areas, retaining walls, sidewalks and other similar facilities, shall be as shown on Drawings 12A, 12B and 12C of Exhibit 46, except as superseded by Drawings 12A, 12B and 12C of the Modification Plans. The roadways shall be private. Roads, sidewalks, parking areas, cluster parking entrances, retaining walls, other similar facilities, and underlying utilities may be shifted by not more than 10 feet horizontally and 5 feet vertically from the locations shown on the applicant's exhibits, except where to do so would encroach on a tree preservation zone or area, or a setback, or where adjustments described herein, in which case the adjustment in location of such facilities shall be allowed only to the restricted area boundary. The applicant may install a below-grade utility corridor between the Crescent and Upper 39th Street Clusters within a tree preservation zone or area provided that such utility corridor shall not exceed 25 feet in width.

22. The main entrance location and design shall be as shown on Drawings 13A, 13B and 13C of Exhibit 46. The centerline of the entrance shall be located at least 109 feet south of the centerline of "S" Street. The emergency entrance location and design shall be as shown on Drawings 12 and 13B of Exhibit 46. Pedestrian entrances shall be as shown on Drawing 13B of Exhibit 46.

23. Perimeter fences shall be constructed as shown on Drawings 12A, 12B, 12C and 14E of Exhibit 46, except that the fence along Whitehaven Parkway shall be a black vinyl-clad chain link fence, instead of a wood stockage fence.

24. The existing wall on the Reservoir Road property boundary shall be preserved.

25. The applicant shall erect and pay for a traffic signal at the 39th Street and Reservoir Road intersection. The applicant shall wire the Georgetown Hospital emergency entrance intersection on Reservoir Road for future signalization to be installed by the D.C. Department of Transportation if deemed necessary.

26. The applicant shall install a 6 foot wide sidewalk in the public right-of-way along the west side of 39th Street from the main entrance to Reservoir Road and along the north side of Reservoir Road from 39th Street to the pedestrian entrance on Reservoir Road, so long as to do so does not adversely impact the adjacent tree preservation area.

27. The applicant may change the names of clusters.

28. Grading shall be carried out at the dimensions shown on Drawings 4A, 4B and 4C of Exhibit 46, except as superseded by Drawings 4A, 4B, 4C of the Modification Plans, The applicant may vary grading 10 feet horizontally or five feet vertically, when necessary to preserve trees or to minimize cut and fill, except where to do so would encroach on a tree preservation zone or area in which case the variation shall be allowed only to the restricted area boundary,

29. Landscaping shall be carried out in accordance with Drawings 5A, 5B, 5C and 5D of Exhibit 46, except as superseded by Drawings 5A, 5B, 5C and 5E of the Modification Plans, Lighting of roadways, parking areas, sidewalks, tennis courts, and pool shall be similar as shown on Drawings 5A, 5B and 5C of Exhibit 46 except as superseded by Drawings 5A, 5B, and 5C of the Modification Plans. Lighting is permitted for informational signs and the entrance sign. The Location of landscape materials and lights may vary in location based on building and grading adjustments described herein but not more than ten feet in any direction. The types of plant materials shown may be substituted for each other, using plant materials types listed in the Second-Stage Application, as amended. Additional quantities of planting materials may be added to the plan.

30. Four permanent and one temporary stormwater management ponds shall be developed as shown on Drawings 6A, 6B and 6C of Exhibit 46 and Drawings 6A, 6B, and 6C of the Modification Plans. Utilities shall be provided as shown on Drawings 6A, 6B and 6C of Exhibit 46 and Drawings 6A, 6B, and 6C of the Modification Plans. Erosion control measures shall be as shown on Drawings 8A, 8B and 8C of Exhibit 46 and Drawings 8A, 8B and 8C of the Modification Plans. Access, during construction, shall be as shown on Drawing 12C of Exhibit 46. Stormwater management ponds, utilities, erosion control measures and construction access roads may be relocated by not more than 10 feet in any direction except where such a relocation would encroach upon a tree preservation zone or area of a plan setback, in which case the relocation shall be permitted only to the restricted area boundary.

31. Stormwater management, erosion control measures, and other treatment -for the northwesternmost townhouse cluster shall be controlled as effectively as they would have been if the now-eliminated Parkside Cluster, as per Modification Plans, had been constructed.

32. Architectural Treatment:

- a. The applicant may relocate any units within and between clusters; may vary the location of unit types as shown on Drawings 1, 3A and 3C of Exhibit 59, Drawings 3B of Exhibit 46, except as superseded by Drawings 3A, 3B and 3C of the Modification Plans and may substitute unit types for other unit types provided that:
 - i. the maximum number of all units (267) is not exceeded;
 - ii, the number of units in any cluster is not increased by more than 10%; and
 - iii. the height of roofs and the front facades of units in clusters are varied in dimension and setback.
- b. The applicant may change the dimensions (width, depth, elevations) of individual units, but not to exceed ten feet in any direction, provided that height limits, FAR and lot occupancy maximums set forth in this Order are not exceeded.
- c. The applicant may vary floor plans from those shown on Drawings 9a through 9o of Exhibit 46, except as superseded by Drawings 9a through 9h of the Modification Plans.
- d. Materials and architectural features may be varied among materials and architectural features shown on Drawings 9a through 9o of Exhibit 46, except as superseded Drawings 9a through 9h of the Modification Plans which include brick, wood or stucco for facades and wood shake,, slate, tile and standing seam metal for roofs.
- e. The 27 detached houses as shown on the modification plans along Whitehaven Park shall be developed using building restriction lines as shown on Drawing 3B of Exhibit 46 and Drawing 3C of Exhibit 59, the height restrictions contained in Condition No. 8 above and the sample architectural controls

contained in the "Architectural Guidelines for Twenty-Eight Detached House Lots" included on Pages A-45 through A-51 in the document entitled "Hillandale PUD" marked as Exhibit No. 2A of the record.

33. The project may be developed in stages over a four-year period. The applicant may start construction on the first stage without the dedicated streets and alleys and paper streets having been closed and abandoned, provided that no building permit be issued or building construction commenced on the area occupied by those dedicated streets and alleys.

34. No building permit shall be issued until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division, which covenants shall bind the applicant and all successors in title to construct on and use the property only in accordance with the adopted order, or amendments thereof, of the Zoning Commission. If the dedicated streets and alleys are not closed by the City Council prior to recordation of the appropriate covenant, that covenant shall state that land occupied by those streets and alleys may not be developed until after the requested closing has taken effect and title has passed to the applicant.

35. Notwithstanding the provisions of Paragraph 7501.84 of the Zoning Regulations, the Chief of the Zoning Regulations Division shall not have the authority to approve any modifications in the final plans not specifically authorized in this order.


36. When the covenant is recorded, the applicants shall file a certified copy of that covenant with the records of the Zoning Commission.


Vote of the Commission taken at the public hearing on December 5, 1985: 4-0 (John G. Parsons, Patricia N. Mathews, Lindsley Williams and Maybelle T. Bennett, to approve with conditions - George M. White, not present, not voting).

This order was adopted by the Zoning Commission at its public meeting held on January 13, 1986, by a vote of 4-0, John G. Parsons, Patricia N. Mathews, Lindsley Williams and Maybelle T. Bennett, to adopt as amended - George M. White, not voting not having participated in the case.

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of

Columbia, this order is final and effective upon publication
in the D.C. Register, specifically on 31 JAN 1986.


MAYBELLE T. BENNETT
Chairperson
Zoning Commission


CECIL B. TUCKER
Acting Executive Director
Zoning Secretariat

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